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**LEAD ATTORNEY IN CHARGE FOR
PLAINTIFFS AND CLASS MEMBERS**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Nicole Myers and Emily Peters, on behalf
of themselves and all other similarly
situated individuals,

Plaintiffs,

v.

Racerworld, LLC d/b/a Bourbon Street;
Arizona Cabarets, LLC; DCA Holdings,
LLC; Robert Stone, Individually; and
Rosalie Raptosh, Individually;

Defendants.

CASE NO. 2:21-cv-1335

ORIGINAL COLLECTIVE
ACTION COMPLAINT
AND JURY DEMAND

I. SUMMARY

1. Defendants Racerworld, LLC d/b/a Bourbon Street; Arizona Cabarets, LLC; DCA Holdings, LLC; Robert Stone; and Rosalie Raptosh (hereinafter “Defendants”), required Nicole Myers and Emily Peter, (hereinafter “Plaintiffs”) to work as exotic dancers

1 at their adult entertainment club, but refused to compensate them at the applicable
2 minimum wage rate.

3 2. Specifically, Defendants misclassified dancers, including Plaintiffs, as
4 independent contractors. Plaintiffs' only compensation was in the form of tips from club
5 patrons, the club paid no wages. In fact, Defendants took money from Plaintiffs under the
6 premise that they had to pay for their space at the club. Plaintiffs were also required to
7 share their tips with Defendants and Defendants' employees who do not customarily
8 receive tips outside of a valid tip pool.

9 3. As a result, Defendants failed to pay Plaintiffs and all other members of the
10 class and collective minimum wage compensation, which they were entitled to under the
11 Federal Fair Labor Standards Act ("FLSA") and the Arizona Fair Wages and Healthy
12 Families Act.

13 4. Plaintiffs bring this class and collective action against Defendants seeking
14 damages, backpay, restitution, liquidated damages, prejudgment interest, post judgment
15 interest, reasonable attorney's fees and costs, and all other relief that the Court deems just,
16 reasonable, and equitable in the circumstances.

17 **II. SUBJECT MATTER JURISDICTION AND VENUE**

18 5. This Court has jurisdiction over the subject matter of this action under 29
19 U.S.C. §216(b), 28 U.S.C. §1331, and Arizona Revised Statutes § 23-364.

20 6. This Court also has supplemental jurisdiction over the state law claims raised
21 herein pursuant to 28 U.S.C. §1367 because such claims do not raise novel or complex
22 issues of state law, and because those claims derive from a common nucleus of operative
23 facts from which the FLSA claims stated herein derive.

24 7. Venue is proper in the District of Arizona pursuant to 28 U.S.C. § 1391(b)
25 because a substantial portion of the events forming the basis of this suit occurred in this
26 District, and Defendants operate an adult entertainment club that is located in this District.
27
28

III. PARTIES AND PERSONAL JURISDICTION

8. Plaintiff Nicole Myers is an individual residing in Arizona. She worked for Defendants in Phoenix, Arizona from August 2017 to November 2019 on a consistent basis. She lived in Phoenix, Arizona and was Defendants' employee. Her consent is attached hereto as Exhibit "A".

9. Plaintiff Emily Peters is an individual residing in Arizona. She worked for Defendants in Phoenix, Arizona from August 2017 to November 2019 on a consistent basis. She lived in Phoenix, Arizona and was Defendants' employee. Her consent is attached hereto as Exhibit "B".

10. Opt-in Plaintiffs are current or former exotic dancers who have worked at Defendants' adult entertainment club within the applicable limitations period and will file a valid consent to join this suit with the Court.

11. The Rule 23 Class Members are all current and former exotic dancers who worked at Defendants' adult entertainment club at any time starting three years before this Complaint was filed, up to the present.

12. Arizona Cabarets, LLC, is an Arizona for-profit corporation that has many adult entertainment subsidiaries. One of these is Racerworld, LLC, d/b/a Bourbon Street. Arizona Cabarets, LLC, may be served via its registered agent, Registered Agents Inc., at 1846 East Innovation Park Dr., Suite 100, Oro Valley, AZ 85755.

13. This Court has personal jurisdiction over Arizona Cabarets LLC, because it is doing business in Arizona. Additionally, its subsidiary, Racerworld, LLC, is doing business in Arizona and the two organizations are effectively the same company and operate as a single enterprise.

14. Racerworld, LLC d/b/a Bourbon Street is domestic for-profit corporation incorporated in Arizona. It may be served via its registered agent, Registered Agents Inc., at 1846 East Innovation Park Dr., Suite 100, Oro Valley, AZ 85755.

1 political subdivision of the state, individual, or other entity acting directly or indirectly in
2 the interest of an employer in relation to an employee, but does not include the state of
3 Arizona, the United States, or a small business.” Ariz. Rev. Stat. Ann. § 23-362(B).

4 25. At all material times, Defendants have been an enterprise in commerce or in
5 the production of goods for commerce within the meaning of 3(s)(1) of the FLSA because
6 they have had employees engaged in commerce. 29 U.S.C. § 203(s)(1).

7 26. For all intents and purposes, Defendants Racerworld, LLC, Arizona
8 Cabarets, LLC, and DCA Holdings, LLC, are effectively the same company and operate
9 as a single enterprise. Despite the corporate fragmentation, a “single enterprise” under the
10 FLSA exists. *See Donovan v. Grim Hotel Co.*, 747 F.2d 966 (5th Cir. 1984).

11 27. Defendants operate in a unified manner and under common control.
12 Defendants shared the same officers and directors, namely David Alexander. In fact, as
13 CEO, David Alexander oversaw and controlled the operations of each Defendant LLC.
14 Defendants also share the same registered address of 7349 Via Paseo Del Sur #515-514
15 Scottsdale, AZ 85258.

16 28. Moreover, Defendants have a common business purposes to operate
17 gentlemen’s clubs for profit.

18 29. Based upon these facts, at all material times, Defendants have operated as a
19 “single enterprise” within the meaning of 3(r)(1) of the FLSA. 29 U.S.C. § 203(r)(1). That
20 is, Defendants perform related activities through unified operation and common control for
21 a common business purpose. *See Brennan v. Arnheim and Neely, Inc.*, 410 U.S. 512, 515
22 (1973); *Reich v. Bay, Inc.*, 23 F.3d 110, 113 (5th Cir. 1994). Additionally, based upon these
23 facts, Defendants are joint employers and are jointly and severally liable for all wage and
24 hour compliance, including the payment of overtime and minimum wage compensation.
25 *See* 29 C.F.R. § 791.2(a); *Schultz v. Capital International Security, Inc.*, 466 F.3d 298, 306
26 (4th Cir. 2006).

27 30. Furthermore, Defendants have had, and continue to have, an annual gross
28 business volume in excess of \$500,000.

1 31. At all material times, Plaintiffs, FLSA Class Members, and Arizona Class
2 Members were individual employees as defined by 29 USC § 206-207 and Ariz. Rev. Stat.
3 Ann. § 23-362(A).

4 32. Defendant Robert Stone is the manager Defendant Racerworld, LLC d/b/a
5 Bourbon Street Club.

6 33. As manager of Racerworld, LLC d/b/a Bourbon Street Club, Defendant
7 Stone employed the Plaintiffs, FLSA Class Members, and Arizona Class Members as
8 employees who danced for and entertained customers.

9 34. Defendant Robert Stone controlled the nature, pay structure, and
10 employment relationship of Plaintiffs, FLSA Class Members, and Arizona Class Members.

11 35. At all material times, Defendant Stone had the authority to hire and fire
12 employees, to direct and supervise the work of employees, to sign on the business's
13 checking accounts to include payroll accounts, and the authority to make decisions
14 regarding employee compensation and capital expenditures. Additionally, Defendant Stone
15 was responsible for the day-to-day affairs of Racerworld, LLC d/b/a Bourbon Street Club,
16 specifically for determining whether Racerworld, LLC d/b/a Bourbon Street Club
17 complied with the FLSA.

18 36. Defendant Rosalie Raptosh is the president of Defendant Racerworld, LLC
19 d/b/a Bourbon Street Club.

20 37. As the president of Racerworld, LLC d/b/a Bourbon Street Club, Defendant
21 Raptosh employed the Plaintiffs, FLSA Class Members, and Arizona Class Members as
22 employees who danced for and entertained customers.

23 38. Defendant Raptosh controlled the nature, pay structure, and employment
24 relationship of Plaintiffs, FLSA Class Members, and Arizona Class Members.

25 39. At all material times, Defendant Raptosh had the authority to hire and fire
26 employees, to direct and supervise the work of employees, to sign on the business's
27 checking accounts to include payroll accounts, and the authority to make decisions
28 regarding employee compensation and capital expenditures. Additionally, Defendant

1 Raptosh was responsible for the day-to-day affairs of Racerworld, LLC d/b/a Bourbon
2 Street Club, specifically for determining whether Racerworld, LLC d/b/a Bourbon Street
3 Club complied with the FLSA.

4 **V. FACTS**

5 40. Defendants operate an adult entertainment club in Phoenix, Arizona under
6 the name of “Bourbon Street.”

7 41. Defendants employ exotic dancers and have employed hundreds of dancers
8 over the years at Bourbon Street.

9 42. Plaintiffs were previously employed as exotic dancers at Defendants’ adult
10 entertainment club during the statutory time period.

11 43. Plaintiffs worked on a regular basis for Defendants’ establishment located in
12 Phoenix, Arizona.

13 44. Plaintiffs worked at Bourbon Street from August 2017 to November 2019.

14 45. Plaintiff Myers worked, on average five hours per shift during her
15 employment and three shifts per week for a total of fifteen hours per week.

16 46. Plaintiff Peters worked, on average five hours per shift during her
17 employment and four shifts per week for a total of twenty hours per week.

18 47. Plaintiffs never received any wages during their employment with Bourbon
19 Street.

20 48. During at least one workweek between August 2017 and November 2019,
21 Defendants did not pay Plaintiffs the state or federally mandated minimum wage. As an
22 illustrative example, starting in the first week of August 2017 that Plaintiffs worked for
23 Defendants as dancers, and continuing until the end of their employment with Bourbon
24 Street, Plaintiffs were not paid a minimum wage.

25 49. Similarly, Opt-In Plaintiffs and Arizona Class Members did not work a single
26 hour at Bourbon Street where they were paid the federally mandated minimum wage of
27 \$7.25 an hour or the state mandated minimum wage of \$12.15 under Arizona Revised
28 Statutes § 23-363 effective January 1, 2021. The previous minimum wages in Arizona

1 during the relevant time periods are as follows: \$11 in 2019, \$10.50 in 2018, and \$10 in
2 2017.

3 50. In fact, Plaintiffs, FLSA Class Members, and Arizona Class Members paid
4 to work at Bourbon Street. They were classified by Defendants as independent contractors
5 who had to pay house fees to dance at Bourbon Street.

6 51. Plaintiffs, FLSA Class Members, and Arizona Class Members were
7 compensated exclusively through tips from Defendants' customers. That is, Defendants
8 did not pay them whatsoever for any hours worked at its establishment.

9 52. Furthermore, Defendants charged Plaintiffs, FLSA Class Members, and
10 Arizona Class Members a "house fee" per shift worked. In other words, they had to pay to
11 work at Bourbon Street and sometimes completed a full shift only to owe the club money.

12 53. Defendants also required Plaintiffs, opt in Plaintiffs, and Arizona Fair Wages
13 and Healthy Families Act Class Members to share their tips with other non-service
14 employees who do not customarily receive tips, including club managers, the disc jockeys,
15 and security.

16 54. Defendants are in violation of the FLSA's tipped-employee compensation
17 provision, 29 U.S.C. § 203(m), which requires employers to pay a tipped employee a
18 minimum of \$2.13 per hour. Defendants also violated § 203(m) when they failed to notify
19 Plaintiffs about the tip credit allowance before the credit was utilized, meaning Defendants'
20 exotic dancers were never made aware of how the tip credit allowance worked or the
21 amounts to be credited.

22 55. Defendants additionally violated § 203(m) because they did not allow
23 Plaintiffs to retain all their tips, but instead required Plaintiffs and Class Members to share
24 their tips with other non-service employees who do not customarily receive tips. Because
25 Defendants violated the tip-pool law, Defendants lose the right to take a credit toward
26 minimum wage.

27 56. Furthermore, Defendants are in violation of Arizona's tipped-employee
28 compensation provision, Ariz. Rev. Stat. Ann. § 23-363(C), which provides that "the

1 employer may pay a wage up to \$3.00 per hour less than the minimum wage if the employer
2 can establish . . . that for each week, when adding tips received to wages paid, the employee
3 received not less than the minimum wage for all hours worked.” Defendants failed to
4 compensate Plaintiffs with wages for any hours worked in violation of the Arizona
5 Minimum Wage Act.

6 57. Plaintiffs and Class Members received tips and/or dance fees from
7 Defendant’s customers but no other form of payment from their employer.

8 58. The money received by Bourbon Street after a shift of dance performances
9 was not included in Defendants’ gross sales receipts and was not disbursed in any way as
10 wages to any workers.

11 59. Defendants illegally classified the dancers as independent contractors.
12 However, at all times, Plaintiffs, opt in Plaintiffs, and Arizona Class Members were
13 employees of Defendants under both Federal and State Law. At all times, Defendants
14 required Plaintiffs and other exotic dancers to perform private dances under the pricing
15 guidelines, policies, procedures, and promotions set exclusively by Defendants.

16 60. Defendants hired/fired, issued pay, supervised, directed, disciplined, and
17 performed all other duties generally associated with that of an employer with regard to the
18 dancers.

19 61. The following non-exhaustive list of policies and procedures actually
20 implemented during the relevant statutory period further demonstrates the dancers’ status
21 as employees and supports their claims:

- 22 a. Defendants have the sole right to hire and fire the dancers;
- 23 b. Defendants required Plaintiffs to audition to work at the premises;
- 24 c. Defendants required Plaintiff to maintain weight to continue working
25 at the premises;
- 26 d. Defendants make dancers pay a house fee to work the premises and
27 the fee increases with the time of the night;
- 28 e. Plaintiffs paid between \$35 and \$65 depending on the time and day to

- 1 Defendants as a house fee, to dance on stage at Bourbon Street every
2 shift;
- 3 f. Defendants unilaterally make the decision not to pay any wages to
4 dancers;
- 5 g. Defendants provide the dancers with music, stages, poles, and other
6 tools to perform dances; the dancer only provides her own body;
- 7 h. Dancers make no financial investment with Defendants' business;
- 8 i. Defendants mandate that dancers pay a minimum tip out per shift of
9 \$10 to the DJ, \$8 to bouncers, \$10 to house moms and \$10 to
10 managers;
- 11 j. Defendants deduct a portion of the charge automatically when
12 customers paid with a credit card;
- 13 k. Dancers are required to work at least four hours a shift, and are fined
14 \$65 if they do not comply;
- 15 l. Defendants track dancers' hours and require dancers to clock in and
16 out on a sign in sheet;
- 17 m. Defendants mandate that dancers be escorted out of the club by a
18 bouncer whenever they leave;
- 19 n. Defendants apply fines/fees to the dancers if they fail to follow
20 Defendants' guidelines or directions;
- 21 o. Defendants maintain the premises – including the stage, bar, and
22 audio set up;
- 23 p. Defendants hire all employees of Bourbon Street – the dancers, DJ's,
24 bouncers, managers, and employ dozens of dancers at one time;
- 25 q. Defendants demanded exclusivity by the dancers employed at
26 Bourbon Street; and
- 27 r. Defendants employ many dancers, including the named Plaintiffs, for
28 several months at least.

62. Defendants misclassified Plaintiffs, FLSA Class Members, and Arizona Class Members as independent contractors to avoid Defendants' obligation to pay them pursuant to the FLSA and State Law.

63. Plaintiffs, FLSA Class Members, and Arizona Class Members constituted the workforce without which Defendants could not perform their services.

64. Plaintiffs, FLSA Class Members, and Arizona Class Members are not exempt from the minimum wage requirements under the FLSA and applicable state labor laws.

65. Defendants' method of paying Plaintiffs, FLSA Class Members, and Arizona Class Members violated the FLSA and was willful and not based on a good faith and reasonable belief that its conduct complied with the FLSA.

66. Defendants' method of paying Plaintiffs, FLSA Class Members, and Arizona Class Members violated the Arizona Minimum Wage Act and Arizona Wage Law and was willful and not based on a good faith and reasonable belief that its conduct complied with Arizona Law.

67. Defendants misclassified Plaintiff, FLSA Class Members, and Arizona Class Members with the sole intent to avoid paying them in accordance with the FLSA. There are multiple federal court opinions finding that this method of compensation is in violation of the FLSA and, therefore, Defendants' conduct is willful.

VI. EQUITABLE TOLLING

68. The doctrine of equitable tolling preserves a plaintiff's full claim when a strict application of the statute of limitations would be inequitable. *See Partlow v. Jewish Orphans' Home of S. Cal., Inc.*, 645 F.2d 757, 760–61 (9th Cir. 1981), abrogated on other grounds by *Hoffman-LaRoche Inc. v. Sperling*, 493 U.S. 165 (1989).

69. Equitable tolling is proper when an employer has engaged in misleading conduct. Defendants intentionally misled Plaintiffs into believing that they were not required to pay them minimum wage. Defendants coerced Plaintiffs, FLSA Class Members, and Arizona Class Members into believing that they were independent

1 contractors. Consequently, Plaintiffs, FLSA Class Members, and Arizona Class Members
2 were victims of fraud and unable to ascertain any violation taking place.

3 70. Thus, the statute of limitations for Plaintiffs, FLSA Class Members, and
4 Arizona Class Members should be equitably tolled due to Defendants' fraudulent
5 concealment of Plaintiffs', FLSA Class Members', and Arizona Class Members' rights.
6 Plaintiffs therefore seek to have the limitations period extended from the first date that
7 Defendants used this covert payroll practice up to the time each Plaintiff joins this lawsuit.

8 **VII. CAUSES OF ACTION**

9 **COUNT I: FAILURE TO PAY FEDERAL MINIMUM WAGE** 10 **(COLLECTIVE ACTION)**

11 71. Plaintiffs incorporate all allegations contained in the foregoing paragraphs.

12 72. Defendants' willful practice of failing to pay Plaintiffs and FLSA Class
13 Members at the required minimum wage rate violates the FLSA and was not based in good
14 faith. 29 U.S.C. § 206.

15 73. The FLSA required that Defendants allow Plaintiffs and other similarly
16 situated exotic dancers to keep all tips and gratuities received from customers. As set forth
17 above, Defendants failed to pay Plaintiffs and other similarly situated exotic dancers at
18 hourly rates in compliance with the FLSA Federal Minimum Wage requirements. Without
19 legal excuse or justification, Defendants kept and/or assigned to management tips and
20 gratuities received by Plaintiffs and other exotic dancers and belonging to Plaintiffs and
21 other exotic dancers.

22 74. As alleged above, Defendants' practice of collecting house fees from the
23 dancers also violates the law.

24 75. None of the exemptions provided by the FLSA regulating the duty of
25 employers to pay employees for all hours worked at the required minimum wage rate are
26 applicable to the Defendants or the Plaintiffs.
27
28

**COUNT II: VIOLATION OF ARIZONA STATE LABOR LAWS FOR FAILURE
TO PAY MINIMUM WAGE (CLASS ACTION)**

76. Plaintiffs and Arizona Class Members incorporate by reference the allegations above.

77. Under Arizona Revised Statutes § 23-363, effective January 1, 2021, the state minimum wage is currently \$12.15. The previous minimum wages in Arizona during the relevant time periods are as follows: \$11 in 2019, \$10.50 in 2018, and \$10 in 2017.

78. As set forth above, Defendants failed to pay Plaintiffs and other similarly situated exotic dancers at hourly rates in compliance with the Arizona minimum wage requirements.

79. Without legal excuse or justification, Defendants kept and/or assigned to management tips and gratuities received by Plaintiffs and other exotic dancers and belonging to Plaintiffs and other exotic dancers. Defendants also charged house fees illegally.

80. Defendants' failure to pay Plaintiffs and other similarly situated exotic dancers as required by Arizona state laws was willful and intentional and was not in good faith.

COUNT III: UNLAWFUL TIP SHARING (COLLECTIVE ACTION)

81. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs.

82. As set forth above, Defendants' failure to allow their exotic dancers to retain all their tips by requiring them to "tip out" employees who do not customarily and regularly receive tips violates the Fair Labor Standards Act, 29 U.S.C. § 203(m). Plaintiffs bring this claim on behalf of themselves and all others similarly situated pursuant to 29 U.S.C. § 216(b).

**COUNT IV: VIOLATION OF ARIZONA FAIR WAGES AND HEALTHY
FAMILIES ACT (CLASS ACTION)**

83. In addition to their FLSA claims, Plaintiffs assert claims for violations of the Arizona Fair Wages and Healthy Families Act set forth in §23.363.

84. Defendants failed to pay Plaintiffs minimum wage under Arizona law and failed to pay Plaintiffs all owed wages under Arizona law.

COUNT V: UNJUST ENRICHMENT (CLASS ACTION)

85. Due to the facts as pled above, Plaintiffs have conferred a benefit upon Defendants. Defendants have knowledge of the benefit conferred and continue to retain that benefit undeservedly. Defendants voluntarily accepted and retained such benefit, because Plaintiffs worked for Defendants, Defendants permitted Plaintiffs to work for the business, and because Defendants chose to maximize business's profit at the expense of Plaintiffs and Class Members.

86. It would be inequitable and unjust for Defendants to continue to retain the benefit, as Plaintiffs conferred a benefit on Defendants which Defendants kept for themselves.

VIII. COLLECTIVE AND CLASS ALLEGATIONS

A. FLSA Class Members

87. Plaintiffs brings this action as an FLSA collective action pursuant to 29 U.S.C. § 216(b) on behalf of all persons who were or are employed by Defendants as exotic dancers at any time during the three years prior to the commencement of this action to present.

88. Plaintiffs have actual knowledge that FLSA Class Members have also been denied pay at the federally mandated minimum wage rate. That is, Plaintiffs worked with other dancers who worked at Bourbon Street. As such, Plaintiffs have first-hand personal knowledge of the same pay violations at Bourbon Street for other dancers. Furthermore, other exotic dancers at Defendants' establishment have shared with Plaintiffs similar pay

1 violation experiences including wage and tip confiscations, as those described in this
2 complaint.

3 89. Other employees similarly situated to Plaintiffs work or have worked for
4 Defendants' business but were not paid at the federally mandated minimum wage rate.

5 90. FLSA Class Members perform or have performed the same or similar work
6 as Plaintiffs.

7 91. FLSA Class Members are not exempt from receiving pay at the federally
8 mandated minimum wage rate under the FLSA.

9 92. As such, FLSA Class Members are similar to Plaintiffs in terms of job duties,
10 pay structure, misclassification as independent contractors and/or the denial of minimum
11 wage.

12 93. Defendants' failure to pay for hours worked at the minimum wage rate
13 required by the FLSA results from generally applicable policies or practices and does not
14 depend on the personal circumstances of the FLSA Class Members.

15 94. The experiences of Plaintiffs, with respect to their pay, are typical of the
16 experiences of the FLSA Class Members.

17 95. The specific job titles or precise job responsibilities of each FLSA Class
18 Member does not prevent collective treatment.

19 96. All FLSA Class Members, irrespective of their particular job requirements,
20 are entitled to compensation for hours worked at the federally mandated minimum wage
21 rate.

22 97. Although the exact amount of damages may vary among FLSA Class
23 Members, the damages for the FLSA Class Members can easily be calculated by a simple
24 formula. The claims of all FLSA Class Members arise from a common nucleus of facts.
25 Liability is based on a systematic course of wrongful conduct by the Defendants that caused
26 harm to all FLSA Class Members.

27 98. As such, Plaintiffs bring their FLSA minimum wage claims as a collective
28 action on behalf of the following class:

1 **The FLSA Class Members are all of Defendants’ current and former**
2 **exotic dancers who worked for Defendants at any time starting three**
3 **years before this lawsuit was filed up to the present.**

4 **B. Rule 23 Class Action**

5 99. Plaintiffs and the Arizona Fair Wages and Healthy Families Act Class
6 Members incorporate all preceding paragraphs as though fully set forth herein.

7 100. Defendants willfully violated Arizona Revised Statute § 23-363 and refused
8 to pay dancers minimum wages and other owed wages (such as wages confiscated via
9 forced tip outs, house fees, and VIP room dance fees).

10 101. Plaintiffs bring their Arizona Fair Wages and Healthy Families Act wage
11 claims as a Rule 23 class action on behalf of the following class:

12 **All of Defendants’ current and former exotic dancers who worked for**
13 **Defendants at any time starting five years before this lawsuit was filed**
14 **up to the present.**

15 102. Numerosity. The number of members in the Arizona Class is believed to be
16 well over forty. This volume makes bringing the claims of each individual member of the
17 class before this Court impracticable. Likewise, joining each individual member of the
18 Arizona Class as a plaintiff in this action is impracticable. Furthermore, the identity of the
19 members of the Arizona Class may be determined from Defendants’ employment files, as
20 will the compensation paid to each of them. As such, a class action is a reasonable and
21 practical means of resolving these claims. To require individual actions would prejudice
22 the Arizona Class and Defendants.

23 103. Typicality. Plaintiffs’ claims are typical of the Arizona Class because, like
24 the members of the Arizona Class, Plaintiffs were subject to Defendants’ uniform policies
25 and practices and were compensated in the same manner as others in the Arizona Class.
26 Defendants failed to pay non-exempt employees who worked at the club minimum wage
27 for all of their hours worked. Plaintiffs and the Arizona Class have been uncompensated
28 and/or under-compensated as a result of Defendants’ common policies and practices which
 failed to comply with Arizona law.

1 104. Adequacy. Plaintiffs are a representative party who will fairly and
2 adequately protect the interests of the Arizona Class because it is in their interest to
3 effectively prosecute the claims herein alleged in order to obtain the unpaid wages and
4 penalties required under Arizona law. Plaintiffs have retained attorneys who are competent
5 in both class actions and wage and hour litigation. Plaintiffs do not have any interest which
6 may be contrary to or in conflict with the claims of the Arizona Class they seek to represent.

7 105. Commonality. Common issues of fact and law predominate over any
8 individual questions in this matter. The common issues of fact include, but are not limited
9 to:

- 10 a. Whether Defendants failed to pay Plaintiffs and the Arizona Class the
11 minimum wage for all hours worked; and
12 b. Whether Defendants took wages and tips from dancers to run their
13 business in violation of Arizona Wage Laws.

14 106. The common issues of law include, but are not limited to:

- 15 a. Whether Defendants improperly classified Plaintiffs and the Arizona
16 Class as independent contractors;
17 b. Whether Plaintiffs and the Arizona Class are entitled to compensatory
18 damages;
19 c. The proper measure of damages sustained by Plaintiffs and the
20 Arizona Class; and
21 d. Whether Defendants' actions were "willful."

22 107. Superiority. A class action is superior to other available means for the fair
23 and efficient adjudication of this lawsuit. Even in the event any member of the Arizona
24 Class could afford to pursue individual litigation against a company the size of Defendants,
25 doing so would unduly burden the court system. Individual litigation would magnify the
26 delay and expense to all parties and flood the court system with duplicative lawsuits.
27 Prosecution of separate actions by individual members of the Arizona Class would create
28

1 the risk of inconsistent or varying judicial results and establish incompatible standards of
2 conduct for Defendants.

3 108. A class action, by contrast, presents far fewer management difficulties and
4 affords the benefits of uniform adjudication of the claims, financial economy for the
5 parties, and comprehensive supervision by a single court. By concentrating this litigation
6 in one forum, judicial economy and parity among the claims of individual Arizona Class
7 Members are promoted. Additionally, class treatment in this matter will provide for judicial
8 consistency. The identity of members of the Arizona Class are readily identifiable from
9 Defendants' records.

10 109. This type of case is well-suited for class action treatment because: (1)
11 Defendants' practices, policies, and/or procedures were uniform; (2) the burden is on the
12 Defendants to prove it properly compensated its employees; and (3) the burden is on the
13 Defendants to accurately record hours worked by employees.

14 110. Ultimately, a class action is a superior forum to resolve the Arizona claims
15 detailed herein because of the common nucleus of operative facts centered on the continued
16 failure of Defendants to pay Plaintiffs and the Arizona Class according to applicable
17 Arizona laws.

18 111. Nature of notice to be proposed. As to the Rule 23 Class, it is contemplated
19 that notice would be issued giving putative class members an opportunity to opt out of the
20 class if they so desire, i.e. "opt-out notice." Notice of the pendency and resolution of the
21 action can be provided to the Arizona class by mail, electronic mail, print, broadcast,
22 internet, and/or multimedia publication.

23 **IX. DAMAGES SOUGHT**

24 112. Plaintiffs, FLSA Class Members, and Arizona Class Members are entitled to
25 recover compensation for the hours they worked for which they were not paid at the
26 mandated minimum wage rate under state law and federal law.
27
28

113. Plaintiffs, FLSA Class Members, and Arizona Class Members are also entitled to recover all of the money Defendants misappropriated, such as house fees, forced tips, wages taken after their performances, and VIP room dance fees.

114. Plaintiffs, FLSA Class Members, and Arizona Class Members are also entitled to an award of statutory liquidated damages in amounts prescribed by the Arizona Fair Wages and Healthy Families Act and the FLSA.

115. Plaintiffs and FLSA Class Members are also entitled to prejudgment and post-judgment interest on unpaid back wages pursuant to the FLSA.

116. Plaintiffs and Arizona Class Members are also entitled to an award of statutory treble damages in amounts prescribed by Arizona Revised Statutes § 23-355(A).

117. Plaintiffs, FLSA Class Members, and Arizona Class Members are also entitled to an award of attorneys' fees and costs under the FLSA and the Arizona Fair Wages and Healthy Families Act.

X. JURY DEMAND

118. Pursuant to their rights under the Constitution of the United States, U.S. CONST. amend VII, and Fed. R. Civ. P. 38(A), Plaintiffs hereby demand trial by jury.

PRAYER FOR RELIEF

For these reasons, Plaintiffs, FLSA Class Members, and Arizona Class Members respectfully request that judgment be entered in their favor awarding the damages requested above. Plaintiffs also request for such other and further relief to which Plaintiffs and Class Members may be entitled, at law or in equity.

Respectfully submitted,

By: /s/ David W. Hodges

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